

**Notice of Allowability**

Application No.

10/827,452

Examiner

J. Allen Shriver

Applicant(s)

HOOPER ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/19/2004.
2. ☒ The allowed claim(s) is/are 1 and 2.
3. ☒ The drawings filed on 19 April 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>2/7/2005</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>9/9/2004</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                               | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|  | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Learman on February 7, 2005.

The application has been amended as follows:

#### **IN THE SPECIFICATION:**

On page 1, line 2 of the Specification, the phrase --, now Patent No. 6,742,792, which claims priority of provisional patent application Serial No. 60/315,561, filed Aug. 29, 2001.-- has been added to the end of the sentence.

#### **IN THE CLAIMS:**

In claim 1, line 17, the word "cover" has been deleted and replaced with the phrase --fabric member--.

In claim 2, line 8, the phrase --front and rear rail-- has been added before the word "structures".

In claim 2, line 11, the word "structures" has been deleted and replaced with the word --portions--.

In claim 2, line 16, the word --fabric-- has been added before the word "cover".

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In claim 2, line 17, the phrase --looped around said side rail portions-- has been added at the end of the sentence.

*Allowable Subject Matter*

2. Claims 1-2 are allowed over the prior art.

3. The following is an examiner's statement of reasons for allowance: In the Examiner's opinion, a merchandise cart having a base platform, front and rear inversely U-shaped rail structures having top rail portions and side rail portions fixed to the front and rear ends of the platform and having vertically spaced cross rails spanning the side rail portions, which have vertically spaced apart side straps looped around the side rail structures and correlating with said cross rails to lie upon and be supported by said cross rails and having couplers on the free ends, a unitary flexible fabric cover secured to said front and rear rail structures draped in inversely U-shaped configuration to provide a top wall and side walls between the front and rear rail structures and having mating cover straps carrying mating couplers secured to project from said side walls of said cover in vertically spaced relation correlating with said cross rails to couple with said couplers on said side straps was not anticipated by the prior art, nor would it have been obvious to a person of ordinary skill in this art. The prior art in Guggenheim (US Patent 4,948,154) discloses a cart having a base platform and front and rear inversely U-shaped rail structures with a flexible fabric cover draped over the rail structures of the cart. The cover is made up of several portions that are attached to each other with a hook and loop fastener, but does not disclose directly coupling the cover to the rail structures of the cart, only securing the cover around the rail structures. Guggenheim does not disclose correlating couplers secured to

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project from said side walls of said cover and from side straps looped around and supported by the cross rails. Vorstenbosch (US Patent 5,875,904) also discloses a cart having a base platform and front and rear rail structures with a cover that wraps around the outside of the rail structures of the cart. The cover is rolled out and has a clip on the end of the cover that affixes to a channel in the rail structure. However, Vortenbosch does not teach the correlating couplers to attach the cover to the rail structures, nor does it teach draping the cover in an inversely U-shaped configuration to provide a top wall and sidewalls. Finally, Schrecongost (US Patent 5,255,765) discloses a cover for a piece of luggage that has mating couplers that attach one end of the cover to the corresponding other end in order to secure the cover around the luggage. However, Schrecongost does not provide motivation to substitute the couplers used on the cover to secure to itself for the fastening method disclosed in either Guggenheim or Vortenbosch, nor does Schrecongost provide the limitations lacking in the two previous references.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

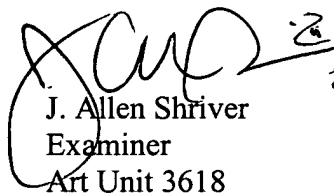
As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monday, February 07, 2005

 2/7/05  
J. Allen Shriver  
Examiner  
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JAS